

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Laura Kastner	Team: Squad #12	CCRB Case #: 201508383	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 10/01/2015 10:00 PM	Location of Incident: Marcy Avenue between Kosciusko Street and Lafayette Avenue	Precinct: 79	18 Mo. SOL 4/1/2017	EO SOL 4/1/2017	
Date/Time CV Reported Fri, 10/02/2015 2:22 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 10/02/2015 2:22 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Richard Danese	12075	934715	079 PCT
2. POM Brian Alexander	00570	948599	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Richard Danese	Abuse: PO Richard Danese stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Brian Alexander	Abuse: PO Brian Alexander stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Richard Danese	Abuse: PO Richard Danese questioned § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

### Case Summary

On October 2, 2015, § 87(2)(b) filed a complaint via the CCRB website. On October 1, 2015 at approximately 10 p.m., § 87(2)(b)'s vehicle was stopped in the vicinity of Marcy Avenue between Kosciusko Street and Lafayette Avenue in Brooklyn by PO Richard Danese and PO Brian Alexander from the 79<sup>th</sup> Precinct (**Allegations A and B**). PO Danese immediately asked § 87(2)(b) whether he was on probation or parole (**Allegation C**). § 87(2)(b) produced his identification and a search was conducted, which revealed his prior arrest for murder. PO Danese then questioned § 87(2)(b) about his criminal history and asked whether he was intoxicated (**within Allegation C**). The officers returned § 87(2)(b)'s identification and left the scene. No summonses or arrests resulted.

There is no video evidence in this case.

On October 19, 2015, this case was reassigned from Inv. Patrick Yu to Inv. Laura Kastner.

### Mediation, Civil and Criminal Histories

§ 87(2)(b) rejected mediation. As of November 24, 2015, § 87(2)(b) has not filed a Notice of Claim with the City of New York in regard to this incident (Board Review 01). § 87(2)(b) has not been convicted of any crimes in the last 10 years (Board Review 02).

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (Board Review 03).
- This is the sixth CCRB complaint filed against PO Danese, who has a total of 22 allegations in his CCRB history and who has been a member of the service for 11 years (see officer history). There are no substantiated allegations against PO Danese, although in CCRB case number 201506288, which is pending Board review, it is recommended that six allegations against him be substantiated, including allegations that PO Danese struck an individual with a blunt instrument, used a chokehold and restricted the breathing of an individual, used physical force against an individual at two different locations, and threatened individuals with the use of force.
- This is the ninth CCRB complaint filed against PO Alexander, who has a total of 20 allegations in his CCRB history and who has been a member of the service for five years (see officer history). In CCRB case number 201502721, allegations that PO Alexander stopped a vehicle, searched a vehicle, refused to provide his name, and frisked, searched, and questioned an individual were all substantiated. The Board recommended that PO Alexander receive Command Discipline A, but the NYPD disposition is still pending.

### Potential Issues

§ 87(2)(b)'s girlfriend, § 87(2)(b) (Board Review 04), was following § 87(2)(b) in her car during this incident, but she did not witness any of the allegations.

During PO Danese's interview (Board Review 05), he revealed that he had seen a copy of § 87(2)(b)'s initial complaint, which he referred to throughout his interview to justify the reasons that § 87(2)(b)'s car was stopped, despite PO Danese not actually recalling the incident. § 87(2)(g)

## **Findings and Recommendations**

### **Explanation of Subject Officer Identification**

An Information Technology System's Division ("ITSD") search (Board Review 06) revealed that PO Alexander conducted a search for § 87(2)(b)'s name at the time of the incident and PO Alexander (Board Review 07) and PO Danese (Board Review 05) both confirmed that they worked together for the entirety of their tour that day. **Allegations A and B** have therefore been pled to them.

§ 87(2)(b) (Board Review 08) described the officers as white men between the ages of 25 and 35 years old with dark hair who were dressed in plainclothes. He said the officer who questioned him was husky and approximately 5'8" tall and that that officer's partner was more muscular and approximately 5'11" tall. PO Danese's pedigree sheet from his CCRB interview (Board Review 09) notes his height as 5'8" tall and PO Alexander's pedigree sheet from his CCRB interview (Board Review 10) notes his height as 5'11" tall. Additionally, both officers' NYPD MOS photos reveal that PO Danese (Board Review 11) has a huskier build than PO Alexander (Board Review 12). Finally, § 87(2)(b) said that the officer who questioned him approached the driver's side of § 87(2)(b)'s car while the other officer stood at the rear on the passenger's side, and that the officer who questioned him said that his partner would run § 87(2)(b)'s identification. During PO Danese's CCRB interview (Board Review 05), he acknowledged that he typically operates his patrol car and lets his partner run computer searches. As such, **Allegation C** has been pled to PO Danese.

**Allegation A –Abuse of Authority: PO Richard Danese stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation B –Abuse of Authority: PO Brian Alexander stopped the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(b) (Board Review 08), who was alone in a rental car, was coming from the home of his girlfriend, § 87(2)(b) and headed home when his vehicle was stopped by PO Danese and PO Alexander. § 87(2)(b) said the officers accused him of driving too close behind them and failing to signal when switching lanes to get in front of their car. § 87(2)(b) recalled switching lanes, but said he did not do so with the intention of cutting anyone off, and that he signaled prior to switching lanes.

Although neither PO Danese (Board Review 05) nor PO Alexander (Board Review 07) recalled this incident, PO Danese, who obtained a copy of § 87(2)(b)'s complaint prior to his CCRB interview, stated that if § 87(2)(b) said he was told that he was stopped for the VTL infractions noted, then that must have been why he was stopped.

§ 87(2)(g)  
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**Allegation C – Abuse of Authority: PO Richard Danese questioned § 87(2)(b)**

§ 87(2)(b) alleged that upon approach, PO Danese asked him, "Are you on parole or probation?" § 87(2)(b) who had not interacted with PO Danese previously and did not know why this question was asked, said no. PO Danese then asked for § 87(2)(b) to provide

documentation for his car, which § 87(2)(b) did, along with his driver's license. § 87(2)(b) said that PO Danese handed his license to PO Alexander.

An ITSD search (Board Review 06) revealed that PO Alexander ran a search for § 87(2)(b)'s name, which produced results noting a prior charge for murder (Board Review 13). § 87(2)(b) alleged that PO Danese then asked him, "Did you kill somebody? Did you shoot them or did you stab them? Why were you convicted of assault in the first degree?" § 87(2)(b) told PO Danese that conviction was from 16 years ago and from somewhere behind § 87(2)(b)'s car, PO Alexander called out, "Attempted murder, attempted murder."

PO Danese allegedly then asked if § 87(2)(b) was in a rush to get home and, "Were you drinking or anything like that?," which § 87(2)(b) denied. § 87(2)(b) said that approximately five minutes into the incident, PO Danese told him that everything checked out, returned his documents, and told him to have a good night.

An officer may question a civilian when he has founded suspicion to believe that criminality is afoot. People v. DeBour, 40 N.Y.2d 210 (1976) (Board Review 14). Knowledge of criminal history, absent more, does not constitute founded suspicion. People v. Boulware, 515 N.Y.S.2d 238 (1987 – Sup. Ct. NY County) (Board Review 15).

PO Danese (Board Review 05) said that during car stops, he typically lets his partner conduct computer checks on their handheld device because he is not tech savvy and would rather drive. § 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(2)(g)

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Squad: #12

Investigator: \_\_\_\_\_  
Signature Print Date

Pod Leader: \_\_\_\_\_  
Title/Signature Print Date

Attorney: \_\_\_\_\_  
Title/Signature Print Date